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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/062,189

01/30/2002

Shunichi Matsushita

KOBAY17.001AUS

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20995

7590

01/14/2005

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EXAMINER

HUGHES, DEANDRA M

ART UNIT

PAPER NUMBER

3663

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/062,189

**Applicant(s)**

MATSUSHITA ET AL.

**Examiner**

Deandra M Hughes

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

1. The amendment filed 10/13/04 has overcome the 35 USC -112 rejection of the office action dated 4/13/04. Consequently, the rejection is withdrawn.

***Response to Arguments***

2. Applicant's arguments filed 10/13/04 have been fully considered but they are not persuasive. Applicant argued that Ye is not prior art with regard to the presently claimed invention because applicant conceived of the invention prior to the filing date of Ye as evidenced by the 'application proposal' submitted with the amendment. (pg. 6, last paragraph of remarks).

This argument is found not convincing because applicant has not submitted a proper Affidavit or Declaration under 37 CFR 1.131 (see MPEP §715).

Further, please note that 37 CFR 1.131(b) states:

"The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence satisfactorily explained."

Due to the lack of translation, the 'application proposal' submitted by the applicant fails to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-3, 5-6, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ye (US 2002/0101634 filed Dec. 15, 2000) in view of Ziari (US 6,522,796 filed Oct. 24, 2000).

With regard to claim 2, Ye discloses:

- a plurality of pairs of pump light sources (fig. 1, 1438+ and 1438- is one pair, etc.);
- a plurality of sets of polarization beam combiners (fig. 1);
- an optical beam coupler for combining a plurality of lightwaves (fig. 1, PUMP MULTIPLEXER),
- the output lightwaves from each pair of light sources being respectively input to "each set" of the said polarization beam combiners to output a composite lightwave of each set with orthogonal state of polarization. the composite lightwave of each set being respectively input to "each set" of the depolarizers to output depolarized lightwaves for each set with lower degree of polarization, and the depolarized lightwaves for each set being combined and output by the optical beam coupler.

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Ye does not specifically disclose a plurality of sets of depolarizers. However, Ziari teaches depolarizing lightwaves prior to introduction to an amplifier (fig. 2, #220). It would have been obvious to one of ordinary skill in the art (e.g. an optical engineer) at the time the invention was made to depolarize the light beam prior to coupling for the advantage of decreasing polarization dependent gain fluctuations which ultimately lead to errors in transmitting information (Ziari, lines 40-50).

With regard to claim 3, Ye does not specifically disclose placing a depolarizer following multiplexing of the pumps. However, Ziari teaches depolarizing pump beams prior to introduction to an amplifier (fig. 2, #220). It would have been obvious to one of ordinary skill in the art (e.g. an optical engineer) at the time the invention was made to depolarize the light beam prior to coupling for the advantage of decreasing polarization dependent gain fluctuations which ultimately lead to errors in transmitting information (Ziari, col. 1, lines 40-50).

With regard to claim 5, Ye discloses one individual light source (1466nm) that is different from the pairs of light sources (1438nm, 1452nm, or 1458nm).

With regard to claims 6 and 9, the depolarizer of Ziari is of a birefringent PM fiber wherein the principle axes are oriented at 45 degrees with respect to each other (col. 8, lines 45-51).

With regard to claim 12, Ziari discloses a transmitter (fig. 1, #102), a receiver (fig. 1, #104), and a Raman amplifier (fig. 1, #120) which is pumped by the depolarized pump source.

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4. Claims 7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ye (US 2002/0101634 filed Dec. 15, 2000) in view of Ziari (US 6,522,796 filed Oct. 24, 2000) as applied to claim 2, 3, or 5 above and further in view of Nishiura (US 5,526,115 published Jun. 11, 1996). Ye in view of Ziari does not specifically disclose that the birefringent material consists of rutile or calcite. Further, Ye in view of Ziari does not specifically disclose that the depolarizer is a Lyot depolarizer. However, Nishiura teaches that rutile, calcite, and Lyot depolarizers are well-known in the art (col. 5, lines 45-51 and col. 7, line 43). It would have been obvious to one of ordinary skill in the art (e.g. an optical engineer) at the time the invention was made to use any of the depolarizers taught by Nishiura for the advantage of a lower priced conventional depolarizer (col. 5, line 25; and col. 7, line 43).

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ye (US 2002/0101634 filed Dec. 15, 2000) in view of Ziari (US 6,522,796 filed Oct. 24, 2000) as applied to claim 2, 3, or 5 above and further in view of Cornwell (US 6,356,383 filed Mar. 31, 2000). Ye in view of Ziari does not specifically disclose the use of isolators. However, isolators are well known in the art. Further, Cornwell clearly teaches the use of isolators (col. 7, lines 9-15). It would have been obvious to one of ordinary skill in the art (e.g. an optical engineer) at the time the invention was made to use isolators for the advantage of preventing unwanted back reflections of light.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

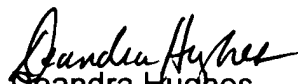
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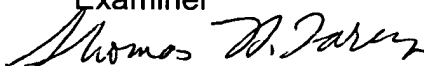
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deandra M Hughes whose telephone number is 703-306-4175. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G Black can be reached on 703-305-9707. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deandra Hughes  
Examiner

  
THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600